

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 518 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

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PATEL VALLABH KANJI

Versus

STATE OF GUJARAT

Appearance:

MR BB NAIK for the appellant

Mr.S.R.Divetia LAPP for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

Date of decision: 21/04/97

ORAL JUDGEMENT (N.J.Pandya,J.)

The accused-appellant was facing charge of murder in the Court of learned Sessions Judge, Rajkot by way of Sessions Case no.46 of 1987. The case of the prosecution was that he has killed his wife by inflicting two knife blows, because she was not acceding to his request for money to gamble.

2. The learned trial Court Judge, by his Judgment dated 13-4-1988, was pleased to accept the case of the prosecution and held the accused guilty for offence under Sec.302 Indian Penal Code and awarded life imprisonment.

3. The post mortem note Exh.6 clearly indicates that death is the result of two blows given in the chest resulting into piercing of lungs and heart respectively. The wounds are of the size that could be caused by a weapon like knife.

4. There are eye witnesses account, firstly that of

a young witness Bharti, daughter of the accused and the deceased, as also the elder brother of the accused and the wife of that elder brother. The said witness p.w.4 Bharti is examined at Exh.11. P.w.5 Shambhu is the next witness, who is the elder brother (Exh.12) and Samjuben, p.w.6 exh.13 is wife of Shyambhau. Their depositions corroborate the prosecution story. In fact, it was Shambhu who caught hold of the accused and at that time, the accused was found holding knife in his hand which also Shambhu removed from his hand and kept it aside. Bharti had also seen actually the blow being inflicted.

5. By the time the deceased could be carried to the hospital she succumbed to the injuries on the way. The evidence thus led before the trial Court clearly indicates that the accused is implicated in the charge levelled against him and the learned trial Court Judge, in our opinion, has correctly come to the aforesaid conclusion. His finding is therefore, confirmed and the appeal is dismissed.

(N.J.Pandya,J.)

(S.D.Pandit,J.)